

IN THE CIRCUIT COURT FOR RANKIN COUNTY, MISSISSIPPI

MILTON MAGEE PLAINTIFF

V REBECCA N. BOYD, CIRCUIT CLERK CAUSE NO. 2013-148

FEDEX FREIGHT EAST, INC., DEFENDANTS

and JOHN AND JANE DOES 1-10

JURY TRIAL DEMANDED

COMPLAINT

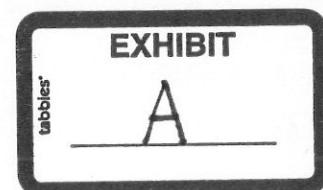
COMES NOW, the Plaintiff, Milton Magee, and files this his Complaint against FedEx Freight East, Inc. and John and Jane Does 1-10 to recover back wages, front pay or reinstatement, compensatory damages, punitive damages, costs and attorney's fees and any other relief to which she may be entitled and in support of this claim she states as follows:

PARTIES

1. The Plaintiff, Milton Magee, is an adult resident citizen of Clinton, Hinds County, Mississippi.

2. The Defendant, FedEx Freight East, Inc. is a domestic corporation licensed to do business in the State of Mississippi and doing business in the State of Mississippi in Richland, Rankin County, Mississippi. FedEx Freight East, Inc. may be served with process by serving its registered agent, TCT Corporation System at 645 Lakeland East Drive, Suite 101, Flowood, MS 39232 or wherever it may be found.

3. Defendants John and Jane Does 1-10 constitute the class of organizations, companies, or individuals unknown to Plaintiff at this time that through their actions, negligence, conspiracy, concealment, or otherwise caused Plaintiff's damage. The group includes any owners, management entities, insurance



companies, managers, or employees of the above named Defendants or any entity or individual related to them or associated with this business that caused or contributed to the injuries suffered by Plaintiff.

JURSIDICTION AND VENUE

4. This Court has subject matter jurisdiction over the claims alleged herein under the provisions of Title I of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12111, *et seq.* and state law.

5. Venue is proper in this district as Defendant is located in this judicial district. In addition, the events and omissions giving rise to the claim occurred in this judicial district.

CAUSES OF ACTION

6. Plaintiff, Milton Magee, had been employed with Defendant, FedEx Freight East, Inc. (hereinafter "FedEx") for over twenty (20) years at the time he was discharged on February 8, 2012.

7. At all times relevant and material, Plaintiff was an employee of Defendant within the meaning of the ADA.

8. On August 20, 2011, Plaintiff sustained a work injury when he was involved in an accident in his company truck.

9. The injuries sustained by the Plaintiff while working resulted in a disability as defined by the Americans with Disabilities Act.

10. Plaintiff is still under doctor's care for this injury.

11. Plaintiff requested and was denied a reasonable accommodation.

12. Upon information and belief, other employees in Plaintiff's same position, who were involved in the same of type accident as the Plaintiff was involved in on

August 20, 2011, were allowed to do modified duties while under doctor's care.

13. Plaintiff believes the reason given for his termination was a pre-text and that he was terminated due to his disability.

14. Defendants wrongfully terminated and/or maliciously discharged the Plaintiff in violation of Mississippi law due to his disability.

15. The Defendants' actions towards the Plaintiff were also done in violation of his federally protected rights.

16. The Defendants actions caused Plaintiff to suffer embarrassment, emotional distress, anxiety and stress.

17. The Defendants actions were done with malice and/or reckless indifference to Plaintiff's rights and Plaintiff is entitled to an award of punitive damages.

18. The Defendants actions were in violation of Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111, *et seq.* and state law.

19. As a result of the Defendants' wrongful conduct, Plaintiff is entitled to an award of damages and all other available relief under Title I of the Americans with Disabilities Act of 1990 and state law (including, without limitation, lost wages, interest, reinstatement or front pay, emotional distress damages, attorneys' fees, litigation expenses, costs and punitive damages).

EEOC PROCEEDINGS

20. Plaintiff timely filed a Charge of Discrimination with the EEOC. A copy of said Charge is attached hereto as Exhibit "A" and incorporated by reference.

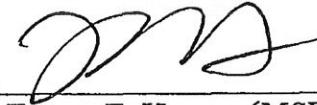
21. Plaintiff was sent his Notice of Right to Sue by the EEOC on March 29, 2013 and this civil action is timely filed. See letter which is attached hereto as Exhibit "B" and incorporated by reference.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following relief:

- a. Back pay;
- b. Front pay;
- c. Reinstatement;
- d. Compensatory damages for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other non-pecuniary losses;
- e. Interest;
- f. Punitive damages;
- g. Reasonable costs and attorneys' fees; and
- h. All other relief to which he may be entitled.

Respectfully submitted, this the 10th day of June 2013.

MILTON MAGEE



Teresa E. Harvey (MSB#100442)

PREPARED BY:

TERESA E. HARVEY (MSB#100442)
CG LAW GROUP, P.A.
120 NORTH CONGRESS ST.
SUITE 200
JACKSON, MS 39201
601-948-8005
601-948-8010 (FAX)

EEOC Form 6 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

 FEPA
 EEOC

423-2012-00845

FEB 27 2012

and EEOC

EEOC/JAO

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Milton Magee

Home Phone (incl. Area Code)

(601) 966-0137

Date of Birth

06-18-1968

Street Address

City, State and ZIP Code

113 Spanish Oak Drive, Clinton, MS 39056

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

FEDEX FREIGHT

No. Employees, Members

201 - 500

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

301 Industrial Drive, Richland, MS 39218

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

02-08-2012

02-08-2012

 CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s):)

I was employed with this business twenty plus years. I was an over the road driver for the company about twelve years. I have driven for the company about fifteen years. I also received an award for safe driving for fifteen years. I was involved in a company vehicle accident on August 20, 2011. I have been under doctor's care for disabilities as a result of the accident that occurred during my employment. I was discharged February 8, 2012.

Tim Roberts, Customer Center Manager said I was suspended from driving for the company for three years. He also said the company did not have any non driving positions available in Jackson. He stated that the company had two part time jobs in Meridian, MS and one part time job in Hattiesburg, MS. He said, basically that leaves us with separation from the company.

I believe I was discriminated against in violation of The Americans with Disabilities Act of 1990 since:

A. I am aware that dock employees are working overtime hours. This is a job that I could perform. I am also still under doctor's care. I was anticipating returning to the driver position that I held after being released

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Feb 27, 2012

Milton J. Magee

Date

Charging Party Signature

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE
(month, day, year)

Exh A

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

FEB 27 2012

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

423-2012-00845

EEOC/JAC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):
 by my doctor.

B. I am aware that other truck drivers involved in the type of accident that I was involved were not separated from the company. One employee, Troy Bingham was allowed to work in the warehouse and on the yard. John Redfield was allowed to have therapy following the accident that he was in. I believe that because I am under doctor's care for my disabilities, I was discharged.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Feb 27, 2012

Charging Party Signature

Date

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE
 (month, day, year)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Milton Magee
113 Spanish Oak Drive
Clinton, MS 39056

From: Jackson Area Office
100 West Capitol Street
Suite 338
Jackson, MS 39269

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

423-2012-00845

EEOC Representative

Jackie T. Blackwell,
Investigator

Telephone No.

(601) 948-8453

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

More than 180 days have passed since the filing of this charge.

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

The EEOC is terminating its processing of this charge.

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



3/29/13
(Date Mailed)

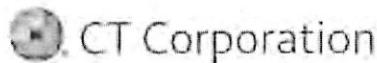
Enclosures(s)

Wilma Scott,
Area Director

cc:

Christina R. Conrad
Senior Attorney
FEDEX FREIGHT
Post Office Box 840
Harrison, AR 72602-0840

Exh B



**Service of Process
Transmittal**
06/20/2013
CT Log Number 522961166

TO: Mai Tran, Asst. Admin/Freight West
FedEx Freight West, Inc.
3425 Victor St
Santa Clara, CA 95054-2319

RE: **Process Served in Mississippi**

FOR: FedEx Freight East, Inc. (Former Name) (Domestic State: AR)
FedEx Freight, Inc. (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Milton Magee, Pltf. vs. Fedex Freight East, Inc., et al., Dfts.

DOCUMENT(S) SERVED: Summons, Proof of Service, Complaint, Exhibits

COURT/AGENCY: Rankin County Circuit Court, MS
Case # 2013148

NATURE OF ACTION: Employee Litigation - Discrimination - On August 20, 2011, Plaintiff sustained a work injury resulting in disability - Plaintiff was terminated on February 8, 2012 due to disability

ON WHOM PROCESS WAS SERVED: C T Corporation System, Flowood, MS

DATE AND HOUR OF SERVICE: By Process Server on 06/20/2013 at 15:20

JURISDICTION SERVED : Mississippi

APPEARANCE OR ANSWER DUE: Within 30 days from the date of delivery

ATTORNEY(S) / SENDER(S): Teresa E. Harvey
CG Law Group, P.A.
120 North Congress Street
suite 200
Jackson, MS 39201
601-948-8005

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 796059446261
Image SOP
Email Notification, Mai Tran mai.tran@fedex.com
Email Notification, Brad Crawford brad.crawford@fedex.com
Email Notification, Christy Conrad christy.conrad@fedex.com
Email Notification, Michael Johnson mikejohnson@fedex.com
Email Notification, Richard Goldaber richard.goldaber@fedex.com
Email Notification, Mireya Llaurado mallaurado@fedex.com

SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 645 Lakeland East Drive
Suite 101
Flowood, MS 39232
TELEPHONE: 800-592-9023

IN THE CIRCUIT COURT OF RANKIN COUNTY, MISSISSIPPI

MILTON MAGEE

PLAINTIFF

v

CAUSE NO. 2013-148

FEDEX FREIGHT EAST, INC. AND
JOHN AND JANES DOES 1-10

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

TO: FedEx Freight East, Inc.
c/o CT Corporation System
645 Lakeland East Dr.
Suite 101
Flowood, MS 39232

NOTICE TO DEFENDANT

**The Complaint which is attached to this Summons is important and
you must take immediate action to protect your rights.**

You are required to mail or hand-deliver a copy of a written response to the Amended Complaint herein to Teresa E. Harvey, attorney for the Plaintiff, whose address is 120 NORTH CONGRESS STREET, SUITE 200, JACKSON, MISSISSIPPI 39201. Your response must be mailed or delivered within thirty (30) days from the date of delivery of this Summons and Complaint or a Judgment by Default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the 12 day of
June, 2013.

BECKY BOYD

BY: Becky Henderson
Circuit Clerk of Rankin County, Mississippi



PROOF OF SERVICE - SUMMONS AND COMPLAINT

(name of person or entity served)

I, the undersigned process server, served the Summons and Complaint upon the person or entity named above in the manner set forth below (process server must check proper space and provide all additional information that is requested and pertinent to the mode of service used):

FIRST CLASS MAIL AND ACKNOWLEDGEMENT SERVICE. By mailing (by first class mail, postage prepaid), on the date stated in the attached Notice, copies to the person served, together with copies of the form of notice and acknowledgement and return envelope postage prepaid, addressed to the sender (Attach completed acknowledgement of receipt pursuant to M.R.C.P. Form 1B).

PERSONAL SERVICE. I personally delivered copies of the summons and complaint on the _____ day of _____, 2013, where I found said person(s) in _____ County and the State of _____.

CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person served. (Attach signed return receipt or other evidence of actual delivery to the person served).

At the time of service, I was at least 18 years of age and not a party to this action.
Process Server must list below: (Please Print or Type)

Name: _____

Social Security No.: _____

Address: _____

Telephone No.: _____

STATE OF MISSISSIPPI
COUNTY OF _____

Personally appeared before me the undersigned authority in and for the state and county aforesaid, the within named _____ who being first by me duly sworn on oath that the matters and facts set forth in the foregoing "Proof of Service-Summons" are true and correct as therein stated.

Process Server (Signature)

Sworn to and subscribed before me this the _____ day of _____, 2013.

Notary Public